

AMENDED IN SENATE JUNE 8, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2408

Introduced by Assembly Member Yee
(Coauthors: Assembly Members Dymally and Leno)
(Coauthor: Senator Escutia)

February 19, 2004

An act to amend Sections 7294, 7299.4, and 7299.6 of, and to add ~~Sections 7299.7 and 7299.75~~ *Section 7299.7* to, the Government Code, relating to bilingual services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2408, as amended, Yee. Bilingual services.

Under the Dymally-Alatorre Bilingual Services Act, every state agency, except the State Compensation Insurance Fund, directly involved in the furnishing of information or the rendering of services to the public whereby contact is made with a substantial number of non-English-speaking people, as required to employ a sufficient number of qualified bilingual persons in public contact positions to ensure provision of information and services to the public, in the language of the non-English-speaking person. The act provides that an employee of a state or local agency may not be dismissed to carry out the purposes of the act, and that an agency need only implement the act by filling employee public contact positions made vacant by retirement or normal attrition.

This bill would also require the filling of newly created positions.

The act requires each agency to conduct a survey of its local offices every 2 years to determine prescribed matters, and requires the State

Personnel Board to review the surveys and report any deficiencies to the Legislature.

This bill would require the survey and report to include additional information, and, if deficiencies in bilingual staffing are identified, would require state agencies to fill public contact jobs with qualified bilingual staff, unless exempted ~~by the board~~, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7294 of the Government Code is
2 amended to read:

3 7294. An employee of a state or local agency, as defined by
4 Sections 11000 and 54951, may not be dismissed to carry out the
5 purposes of this chapter. A state or local public agency need only
6 implement this chapter by filling employee public contact
7 positions newly created or made vacant by retirement or normal
8 attrition.

9 SEC. 2. Section 7299.4 of the Government Code is amended
10 to read:

11 7299.4. (a) Notwithstanding any other provision in this
12 chapter, each state agency shall conduct an assessment and
13 develop and update an implementation plan that complies with the
14 requirements of this chapter.

15 (b) Each agency shall conduct a survey of each of its local
16 offices every two years to determine all of the following:

17 (1) The number of public contact positions in each local office.

18 (2) The number of bilingual employees in public contact
19 positions in each local office, and the languages they speak, other
20 than English.

21 (3) The number of bilingual employees in public contact
22 positions needed at each local office to implement fully Section
23 7292.

24 (4) *The number of appointments made to public contact*
25 *positions in local offices where deficiencies exist.*

26 (5) *The number of appointments identified in paragraph (4)*
27 *that were filled with bilingual employees, and the languages they*
28 *speak, other than English.*



1 (6) *The written documentation where a condition described in*
2 *subdivision (b) of Section 7299.7 was applied to exempt the state*
3 *agency from the requirements of subdivision (a) of that section.*

4 (7) The number and percentage of non-English-speaking
5 people served by each local office, broken down by native
6 language.

7 ~~(5)–~~

8 (8) The number of anticipated vacancies in public contact
9 positions.

10 ~~(6)–~~

11 (9) Whether the use of other available options, including
12 contracted telephone based interpretation services, in addition to
13 bilingual persons in public contact positions, is serving the
14 language needs of the people served by the agency.

15 ~~(7)–~~

16 (10) A list of all written materials that are required to be
17 translated or otherwise made accessible to non- or
18 limited-English-speaking individuals by Sections 7295.2 and
19 7295.4.

20 ~~(8)–~~

21 (11) A list of materials identified in paragraph (5) that have
22 been translated and languages into which they have been
23 translated.

24 ~~(9) The number of additional bilingual public contact staff, if~~
25 ~~any, needed at each local office to comply with this chapter.~~

26 ~~(10)–~~

27 (12) Any other relevant information requested by the State
28 Personnel Board.

29 (c) (1) Each agency shall calculate the percentage of
30 non-English-speaking people served by each local office by
31 rounding the percentage arrived at to the nearest whole percentage
32 point.

33 (2) The survey results shall be reported on forms provided by
34 the State Personnel Board, and delivered to the board not later than
35 March 31 of every even-numbered year beginning with 1992.

36 (d) Beginning in 2003 and in every even-numbered year
37 thereafter, each state agency shall develop an implementation plan
38 that, at a minimum, addresses all of the following:

1 (1) The name, position, and contact information of the
2 employee designated by the agency to be responsible for
3 overseeing implementation of the plan.

4 (2) A description of the agency's procedures for identifying
5 written materials that need to be translated.

6 (3) A description of the agency's procedures for identifying
7 language needs at local offices and assigning qualified bilingual
8 staff.

9 (4) A description of how the agency recruits qualified bilingual
10 staff.

11 (5) A description of any training the agency provides to its staff
12 on the provision of services to non- or limited-English-speaking
13 individuals.

14 (6) A detailed description of how the agency plans to address
15 any deficiencies in meeting the requirements of this chapter,
16 including, but not limited to, the failure to translate written
17 materials or employ sufficient numbers of qualified bilingual
18 employees in public contact positions at local offices, the proposed
19 actions to be taken to address the deficiencies, and the proposed
20 dates by when the deficiencies can be remedied.

21 (7) A description of the agency's procedures for accepting and
22 resolving complaints of an alleged violation of this chapter.

23 (8) A description of how the agency complies with any federal
24 or other state laws that require the provision of linguistically
25 accessible services to the public.

26 (9) Any other relevant information requested by the State
27 Personnel Board.

28 (e) In developing its implementation plan in 2003, each state
29 agency may rely upon data gathered from its 2002 survey.

30 (f) Each state agency shall submit its implementation plan to
31 the relevant fiscal and policy committees of the Legislature
32 including, but not limited to, the appropriate budget subcommittee
33 of each house, and to the State Personnel Board no later than
34 October 1 of each applicable year. The board shall review each
35 plan, and, if it determines that the plan fails to address the
36 identified deficiencies, the board shall order the agency to
37 supplement or make changes to its plan. A state agency that has
38 been determined to be deficient shall report to the State Personnel
39 Board every six months on its progress in addressing the identified
40 deficiencies.

(g) If the board determines that a state agency has not made reasonable progress toward complying with this chapter, the board may issue orders that it deems appropriate to effectuate the purposes of this chapter.

SEC. 3. Section 7299.6 of the Government Code is amended to read:

7299.6. The State Personnel Board shall review the results of the surveys and implementation plans required to be made by Section 7299.4, compile this data, and provide a report to the Legislature every two years. The report shall identify significant problems or deficiencies, including any deficiencies in bilingual staffing necessary to implement Section 7292, and propose solutions where warranted.

SEC. 4. Section 7299.7 is added to the Government Code, to read:

~~7299.7. If (a) Except as provided in subdivision (c), if a state agency, pursuant to Section 7299.4, or the State Personnel Board in reviewing a state agency's implementation plan required by Section 7299.4, identifies deficiencies in bilingual staffing at any local office of a state agency, that state agency shall be required to fill any future public contact position job openings at that local office with qualified bilingual staff until the state agency is in compliance with Section 7292. For purposes of this chapter, "job openings" include newly created public contact positions or public contact positions made vacant by retirement or attrition.~~

~~SEC. 5. Section 7299.75 is added to the Government Code, to read:~~

~~7299.75.— 7292.~~

(b) The State Personnel Board may exempt state agencies from the requirements of ~~Section 7299.7 if the State Personnel Board determines~~ subdivision (a) if the state agency documents that any of the following conditions apply:

~~(a)—~~

(1) An emergency has arisen that requires the agency to fill immediately a relevant public contact position either newly created or made vacant by retirement or attrition.

~~(b)—~~

(2) The state agency has performed targeted recruitment for bilingual staff, including advertising in relevant ethnic media and outreach at community job fairs and events or through

1 community-based organizations, and no qualified bilingual
2 candidates can be identified within a reasonable period of time.

3 ~~(e)~~

4 (3) The job opening is for a public contact position that would
5 not address the state agency's deficiencies in complying with
6 Section 7292.

7 ~~In order to receive the exemption, the state agency shall petition~~
8 ~~the State Personnel Board for an exemption for each newly created~~
9 ~~or vacant public contact position and receive approval in writing.~~

10 (c) *In order to receive the exemption, the state agency shall*
11 *submit to the State Personnel Board the required written*
12 *documentation to support the condition that was applied for each*
13 *newly created or vacant public contact position subject to*
14 *subdivision (a). The State Personnel Board shall provide written*
15 *acknowledgement of receipt for each exemption request prior to*
16 *any state agency making an appointment subject to that*
17 *subdivision. The State Personnel Board shall conduct a biennial*
18 *review of all exemptions upon submission of each state agency's*
19 *language survey by March 31 of every even-numbered year. If any*
20 *state agency is found not to have complied with this chapter or to*
21 *have inadequately documented its efforts to comply with*
22 *subdivision (a), the State Personnel Board may issue any orders*
23 *its deems necessary to enforce subdivision (a) including, but not*
24 *limited to, an order requiring the agency to obtain prior approval*
25 *of the board for each appointment to a position subject to that*
26 *subdivision, until the state agency is in full compliance with*
27 *Section 7292.*

28 (d) *For purposes of this chapter, "job openings" includes*
29 *newly created public contact positions or public contact positions*
30 *made vacant by retirement or attrition.*